1 2 3 4 5 6 7 IN THE UNITED STATES DISTRICT COURT IN AND FOR THE WESTERN DISTRICT OF WASHINGTON 8 NATHEN BARTON, 9 CASE NO. 3:21-cv-05610-JRC Plaintiff, 10 **DEFENDANTS JOE DELFGAUW,** XANADU MARKETING INC and v. 11 STARTER HOME INVESTING INC.'S ANSWER TO FIRST AMENDED JOE DELFGAUW, XANADU 12 MARKETING INC., STARTER HOME COMPLAINT. INVESTING INC, & JOHN DOE 1-10, 13 Defendants. 14 JOE DELFGAUW, XANADU 15 MARKETING INC., STARTER HOME INVESTING INC, & JOHN DOE 1-10, 16 Counterclaimants, 17 v. 18 NATHEN BARTON, 19 Counter Defendants. 20 21 COMES NOW Defendants JOE DELFGAUW, XANADU MARKETING INC and 22 STARTER HOME INVESTING INC.'S and answers the Complaint as follows: There are no paragraph numbers. Defendants responds to each paragraph in order. ANSWER TO FIRST AMENDED COMPLAINT Page 1 Law Office of Donna Beasley Gibson PLC 3:21-cv-05610 JRC 1204 Cleveland Avenue Mount Vernon, WA 98273

206-242-5529

1 I. BASIS FOR JURISDICTION 2 Defendants lack sufficient personal information to admit or deny the information as to 3 the residence of Plaintiff and leaves Plaintiff to its proofs as to the remaining allegations in 4 this paragraph. 5 Defendants admit that if Plaintiff does live in Washington that venue and jurisdiction 6 are proper in this Court. Defendants lack sufficient personal information to admit or deny 7 the information as to the residence of Plaintiff and leaves Plaintiff to its proofs as to the 8 remaining allegations in this paragraph. 9 The remainder of the allegations in the section are vague and the Answering Parties 10 leave Plaintiff to his proofs. 11 II. THE PARTIES TO THE LITIGATION 12 Defendants lack sufficient personal information to admit or deny the information as to 13 the residence of Plaintiff and leaves Plaintiff to its proofs. 14 Page 2, lines 1-3, Defendants lack sufficient information on which to form a belief and 15 therefore Plaintiff to its proofs 16 17 Page 2, lines 4-5 Denied 18 Page 2, lines 6-11, Defendants lack sufficient information on which to form a belief and 19 therefore Plaintiff to its proofs 20 21 Page 2, lines 12-13, Denied 22 Page 2, lines 14-17, Admitted Page 2, line 18, Denied ANSWER TO FIRST AMENDED COMPLAINT Page 2 Law Office of Donna Beasley Gibson PLC 3:21-cv-05610 JRC 1204 Cleveland Avenue

1	Page 2, lines 19-21 & Page 3, 1-2, Admit
2	Page 3, lines 3-5,Denied
3	Page 3, lines 6 and part of 7, Denied
4	Page 3, lines 7-10, Denied
5	Page 3, lines 11-14, Defendants lack sufficient information on which to form a belief and
6	therefore Plaintiff to its proofs
7 8 9 10	Page 3, line 15 Admit  Page 3, line 16, Denied  Page 3, line 17 -20, Admit  Page 3, lines 21-23 & Page 4, lines1- 12, Defendants lack sufficient information on which to form a belief and therefore Plaintiff to its proofs
12	
13	III. STATEMENT OF CLAIM
14	Page 4 lines 3 -9, the Answering Parties lack sufficient information on which to form a
15	belief and therefore leave Plaintiff to its proofs.
16	Text Messages from SMS Short Code 33959
17 18	Page 4, lines 13-14, Admit
19 20	Page 4, lines 15 -22 & all of page 5 & line1 of page 6, Defendants lack sufficient information on which to form a belief and therefore Plaintiff to its proofs
21	Page 6, lines 2-6 Admit
22	Page 6, line 7, denied
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1	Page 6, lines 8-15, Admit	
2	Page 6, last half of line 15 – line 17, Defendants lack sufficient information on which	
4	to form a belief and therefore Plaintiff to its proofs	
5	Rest of page 6, denied	
6	Text Messages from SMS Short Code 365365	
7 8	Page 7, lines 1-3, defendants lack sufficient information on which to form a belief and	
9	therefore Plaintiff to its proofs	
10	Page 7, lines 4-8, Denied	
<ul><li>11</li><li>12</li><li>13</li></ul>	Page 7, lines 9- end of page, Defendants lack sufficient information on which to form a belief and therefore Plaintiff to its proofs	
14	Text Messages from (803) 618-8038	
15 16 17	Page 8, Lines 1-5, Defendants lack sufficient information on which to form a belief and therefore Plaintiff to its proofs	
18	Page 8, lines 6-13, Admit	
19 20 21	Page 8, lines, 14-16, Defendants lack sufficient information on which to form a belief and therefore Plaintiff to its proofs	
22	Page 8, lines 19-20, Amit	
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1	Page 8, rest of the page and page 9, lines 1-14, Defendants lack sufficient information	
2	on which to form a belief and therefore Plaintiff to its proofs	
3	Solicitations from 1 <sup>st</sup> Time Home Buyer Program Inc.	
4		
5	Page 9 lines 15-17, Admit	
<ul><li>6</li><li>7</li></ul>	Page 9,lines 18-20, Defendants lack sufficient information on which to form a belief and therefore Plaintiff to its proofs	
8 9	Rest of page 9 & page 10, lines 1-4, Admit	
10		
11	Page 10, lines 5-7, Defendants lack sufficient information on which to form a belief	
12	and therefore Plaintiff to its proofs	
13	Page 10, line 8, Admit	
14	Page 10, lines 9-11, denied	
15	rage 10, lines 7-11, defined	
16	Page 10, lines 12-18, Defendants lack sufficient information on which to form a belief	
17	and therefore Plaintiff to its proofs	
18	More about (360) 318-7867	
19		
20	Rest of page 10 & page 11, lines 1-5 Defendants lack sufficient information on which	
21	to form a belief and therefore Plaintiff to its proofs	
22	Enter ApexPageBuilder.com	
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Page 11, line 7-11: Defendants lacks sufficient info and therefore leaves Plaintiff to its proofs.	formation on which to form a belief
Page 11, line 13 Admit	
Page 11, lines 14-16, denied	
Page 11, lines 17-21, Defendants lack sufficient infand therefore Plaintiff to its proofs	formation on which to form a belief
Page11, lines 22-23 & lines 1-2 of page 12, Admit	
Page 12, line 3, denied	
Page 12, lines 4-5, Defendants lack sufficient information	mation on which to form a belief
and therefore Plaintiff to its proofs	
Page 12, lines 6-8, Admit	
Page 12, lines 9-10 denied	
Page 12, lines 11 though Page 13, line 5, Defendan	ts lack sufficient information on
which to form a belief and therefore Plaintiff to its proofs	
Roundup Lawsuit unsolicited call #3	
Defendants lacks sufficient personal information to	admit or deny the allegations
contained in this Section and leaves Plaintiff to its proofs.	
Except for Page 13, line 12, Admit.	
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1	These calls are annoying	
2	Defendants lacks sufficient personal information to admit or deny the allegations	
3	contained in this Section and leaves Plaintiff to its proofs.	
4	Joe Delfgauw's Personal Liability	
5	Dogo 14 lines 1 6 denied	
6	Page 14, lines 1-6, denied	
7	Page 14, Lines 7-24, Defendants lack sufficient information on which to form a belief and	
8	therefore Plaintiff to its proofs	
9		
10	The rest of the complaint, Defendants lack sufficient information on which to form a belief and	
11	therefore Plaintiff to its proofs	
12	Commercial Telephone Solicitors	
13		
14	Defendants lack sufficient information on which to form a belief and therefore Plaintiff to its	
15	proofs	
16	AS TO THE REMAINDER OF THE AMENDED COMPLAINT Defendants lack	
17	sufficient information on which to form a belief and therefore Plaintiff to its proofs	
18		
19		
20	DEFENSES	
21	Defendants JOE DELFGAUW, XANADU MARKETING INC., and STARTER	
22	HOME INVESTMENTS, INC, asserts the following defenses	
	1. Ambiguity	
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This answering Defendants assert that the plaintiff did not clearly state the issues in this case, making it difficult for Defendants to fully respond, and therefore asks this Court for leave to amend this answer to assert additional defenses once information is discovered that would allow defenses to be known. 2. Failure to State a Claim Upon Which Relief Can Be Granted Plaintiff's complaint fails to state a claim upon which relief can be granted against these answering Defendants. 3. Standing Mr. Barton has fraudulently manufactured this lawsuit with the intent of obtaining money through the misuse of the TCPA and currently has at least nine active federal cases, which Defendants believes shows bad faith on the part of Plaintiff. Mr. Barton is not the type of plaintiff the law was created to protect and therefore, lacks Article III standing to even bring the lawsuit. See Stoops v. Wells Fargo Bank, N.A., 197 F. Supp.3d 782 (W.D. Pa. 2016). 4. Fraud Defendants asserts that plaintiff or plaintiff's assignee used fraud, deceit or misrepresentation to invite the contact 5. Unclean Hands These answering Defendants assert that plaintiff or plaintiff's assignee committed a wrongful act and/or fraud and/or misrepresentation and is attempting to benefit from those acts through this lawsuit. 6. Failure to Mitigation ANSWER TO FIRST AMENDED COMPLAINT Page 8

1 These answering Defendants assert that neither plaintiff nor plaintiff's assignee on 2 plaintiff's behalf to mitigate his damages. 3 AND NOW having answered the allegations of the Complaint and having pled 4 affirmatively, these answering Defendants deny that Plaintiff is entitled to any relief and 5 demands that the Complaint be dismissed at Plaintiff's cost. 6 COUNTERCLAIMS 7 The COUNTERCLAIMANTS re-assert their counterclaims as previously presented in 8 their respective answers previously filed, without amendment. 9 CONCLUSION AND REQUEST FOR RELIEF 10 Counterclaimant request that the Court enter a judgment that BARTON is liable for 11 common-law fraud and fraud by non-disclosure and award Counterclaimant's actual damages, 12 exemplary damages, interest, costs, attorneys' fees and all other relief that this Court finds fair 13 and just. 14 Dated this 30<sup>th</sup> day of January, 2022 15 s/Donna Gibson 16 Donna Gibson WSBA 33583 Attorney for Defendants 17 JOE DELFGAUW XANADU MARKETING INC 18 STARTER HOME INVESTING INC Law Office of Donna Beasley Gibson 19 1204 Cleveland Ave Mount Vernon, WA 98273 206-242-5529/Fax: 425-332-7068 20 beasleylaw@msn.com 21 donna@donnagibsonlaw.com 22 ANSWER TO FIRST AMENDED COMPLAINT Page 9 Law Office of Donna Beasley Gibson PLC 3:21-cv-05610 JRC